

AMENDED IN SENATE MARCH 28, 2006

SENATE BILL

No. 1377

Introduced by Senator Soto

February 21, 2006

An act to add Section ~~39516.5~~ 39600.5 to the Health and Safety Code, relating to air resources.

LEGISLATIVE COUNSEL'S DIGEST

SB 1377, as amended, Soto. State Air Resources Board: ~~executive officer~~. memorandum of understanding.

Existing law imposes various limitations on emissions of air contaminants for the control of air pollution from vehicular and nonvehicular sources. Existing law generally designates the State Air Resources Board as the state agency with the primary responsibility for the control of vehicular air pollution. Existing law requires the state board to do those acts as may be necessary for the proper execution of the powers and duties granted to, and imposed upon, the state board by law.

This bill would permit the state board to enter into a voluntary agreement, including a memorandum of understanding, with a public or private entity, as provided, and would require the state board to perform specified functions in entering into an agreement. The bill would require the state board to submit annual reports on all existing agreements to the Legislature, as provided.

~~Existing law imposes various limitations on emissions of air contaminants for the control of air pollution from vehicular and nonvehicular sources and generally designates the State Air Resources Board as the state agency with the primary responsibility for the control of vehicular air pollution. Existing law requires the state board~~

~~to appoint an executive officer and, except as specified, authorizes the state board to delegate any duty to the executive officer that the state board deems appropriate. Under existing law, any power, duty, purpose, function, or jurisdiction that the state board may lawfully delegate is conclusively presumed to have been delegated to the executive officer unless it is shown that the state board, by affirmative vote recorded in the minutes of the state board, specifically has reserved the same for the state board's own action. Existing law requires the state board, upon the receipt of a petition from any affected member of the public, affected district, or designated air quality planning agency, to hold a public hearing to review any action taken by the executive officer pursuant to specified provisions relating to nonattainment area plans.~~

~~This bill would require the executive officer to submit to the Legislature any proposed memorandum of understanding proposed to be entered into between the executive officer and another person or public or private entity, and would prohibit a proposed memorandum of understanding so submitted from taking effect unless it is approved by statute passed by majority vote of each house of the Legislature and signed by the Governor.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 *SECTION 1. Section 39600.5 is added to the Health and*
- 2 *Safety Code, to read:*
- 3 *39600.5. (a) The state board may enter into a voluntary*
- 4 *agreement, including a memorandum of understanding with a*
- 5 *public or private entity, necessary for the proper execution of the*
- 6 *powers and duties granted to, and imposed upon, the state board*
- 7 *by this division and by any other provision of law.*
- 8 *(b) Any agreement entered into which serves to reduce*
- 9 *emissions shall be no longer than two years in duration, and*
- 10 *shall address unregulated or under regulated sources, and shall*
- 11 *continue only until appropriate regulation or legislation is*
- 12 *enacted to address those unregulated or under regulated sources.*
- 13 *(c) Any agreement pursuant to this section shall provide*
- 14 *opportunities for public participation, consistent with normal*
- 15 *rulemaking processes by the state board.*

1 (d) The state board shall ratify all voluntary agreements,
2 including, but not limited to, those entered into by the Executive
3 Officer to reduce emissions.

4 (e) Prior to ratifying an agreement, the state board shall
5 perform all of the following functions:

6 (1) Consult with, and consider the suggestions of, the public
7 and all interested parties, including, but not limited to, the
8 Legislature, the California Air Pollution Control Officers
9 Association, and all entities affected by the agreement.

10 (2) Conduct at least three public workshops, located in
11 affected areas of the state, to solicit comments on the proposed
12 agreement.

13 (3) Prepare a written report relating to the agreement that
14 contains at least all of the following:

15 (A) A description of the public participation process, including
16 public opinions and recommendations relating to the agreement.

17 (B) A description of the emissions reductions achieved by the
18 agreement. Targeted emissions reductions shall be from an
19 established baseline, and shall be permanent.

20 (C) An assessment of the local cumulative impacts and
21 environmental justice implications.

22 (D) An analysis of the methods of compliance and
23 enforceability of the agreement.

24 (E) An analysis of the agreement pursuant to the California
25 Environmental Quality Act, including an analysis of the
26 significant environmental impacts, alternatives, and mitigation
27 measures that would reduce these impacts.

28 (4) Evaluate and incorporate the best available control
29 technologies and new emerging alternative technologies into the
30 agreement, to the extent feasible.

31 (5) Initiate the development of appropriate legislation.

32 (6) The chairperson of the state board shall consult with the
33 Legislature. At the discretion of the Legislature or any committee
34 thereof, the chairperson of the state board or his or her
35 designated representatives shall testify before the Legislature or
36 committee to explain the rationale for the agreement, including
37 why current authority does not support a regulatory approach.

38 (f) Voluntary agreements that the state board ratifies shall be
39 reevaluated every year, and the state board shall submit annual

1 reports on all existing agreements to the Legislature that include
2 but not limited to, all of the following:

3 (1) An evaluation of the effectiveness of every agreement,
4 annual reevaluations of every agreement, as applicable, and an
5 analysis of compliance, participation rates, and enforceability of
6 each agreement.

7 (2) The status of any memorandum of understanding.

8 (3) An evaluation of the emissions reductions achieved
9 through the agreement.

10 (4) An evaluation of the best available control technologies
11 and new emerging alternative technologies for the applicable
12 pollution sources categories incorporated by the agreement.

13 (g) Failure to comply with this section shall invalidate any
14 agreement entered into pursuant to this section.

15 (h) The provisions of this section shall apply to any
16 memorandum of understanding entered into by the Executive
17 Officer after January 1, 2007.

18 ~~SECTION 1. Section 39516.5 is added to the Health and~~
19 ~~Safety Code, to read:~~

20 ~~39516.5. (a) The executive officer shall submit to the~~
21 ~~Legislature any memorandum of understanding proposed to be~~
22 ~~entered into between the executive officer and any other person~~
23 ~~or public or private entity.~~

24 ~~(b) A proposed memorandum of understanding submitted in~~
25 ~~accordance with subdivision (a) shall not take effect unless it is~~
26 ~~approved by statute passed by majority vote of each house of the~~
27 ~~Legislature and signed by the Governor.~~